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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/620,959

07/16/2003

Myron K. Gordin

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22885

7590

04/07/2009

MCKEE, VOORHEES & SEASE, P.L.C.

801 GRAND AVENUE

SUITE 3200

DES MOINES, IA 50309-2721

EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/620,959

Applicant(s)

GORDIN ET AL.

Examiner

BASIL KATCHEVES

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12, 14-16, 18-20, 26-41, 56-59, 63-74, 76, 77 and 80-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-12, 14-16, 18-20, 26-41, 56-59 and 63-72 is/are allowed.
- 6) ☒ Claim(s) 73, 74, 76, 77 and 80-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-846)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This non final action is necessitated by the reconsideration of claimed subject matter previously indicated as allowable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 73, 80 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al. in view of U.S. Patent No. 4,019,301 to Fox.

Regarding claim 73, Gordin discloses a substantially hollow, tubular, steel, tapered, elongated metal pole (fig. 11: 92) which holds lighting. However, Gordin does not disclose a plastic independent covering substantially around the whole pole. Fox discloses sheet material comprised of wrapped plastic sheets (figs. 5 and see plurality of sheet members in fig. 6) and an epoxy adhesive (, having opposite edges connected (fig. 6), covering a substantial portion of metal structural members (secured from movement). It would have been obvious to one having ordinary skill in the art at the

time the invention was made to modify Gordin by adding the protective plastic sheet material of Fox in order to prevent corrosion. Regarding the claimed thicknesses of the cover and pole, Fox and Gordin disclose the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims. Also, the applicant should note that a combination of Gordin with Fox would result in a trapezoidal sheet shape since the pole of Gordin is conical and tapered. The applicant should also note that the sheet material of Fox is comprised of a plastic exterior and epoxy adhesive (column 4, lines 5-8). This sheet material is directly bonded to the pole needing reinforcement. Also, Fox discloses the fastener (fig. 3: groove 48) as being an elongated clip with a base (flat portion of groove between walls 48) and two opposite walls at opposite sides of the base. Fox does not particularly disclose the walls as being angled inwardly but does specifically disclose the walls as friction fitting with the tongue (50) (column 3, lines 33-37). However, a friction fit implies inwardly angled walls since there would be no friction without an inward force provided by the walls. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the walls as inwardly angled in order to increase the friction between the walls and the groove as a friction fit is the intent of the design.

Regarding claims 80 and 81, Fox discloses the walls as capable of being able to apply clamping force when deformed or not.

Claims 74, 76-78, 82-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,340,790 to Gordin et al in view of U.S. Patent No. 4,019,301 to Fox further in view of U.S. Patent No. 3,968,561 to Oakes et al.

Regarding claims 76, 84, Gordin discloses a substantially hollow, tubular, steel, tapered, elongated metal pole (fig. 11: 92) which holds lighting. However, Gordin does not disclose a plastic independent covering substantially around the whole pole. Fox discloses wrapped plastic sheets (fig. 6) for covering metal members (secured from movement). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin by adding the protective plastic covering of Fox in order to prevent corrosion. Regarding the claimed thickness of the cover and pole, Fox and Gordin discloses the basic claim structure of the instant application but do not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims. Gordin in view of Fox does not disclose the sleeves as having the opposite side edges rolled into a U shape. Oakes discloses a pole sleeve having opposite edges rolled into a U shape (fig. 2: 21). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Gordin in view of Fox by using the U shaped ends of Oakes in order to secure the sleeve around the pole in a tighter crimped manner.

Regarding claim 74, the height of the pole would be an obvious design choice dependant upon the intended use of the pole.

Regarding claim 77, Fox discloses the sides (88, 90, 92) as adjacent but not overlapping.

Regarding claim 78, Fox discloses a fastener (108) for securing the cover.

Regarding claims 82, 83, Gordin in view of Fox further in view of Oakes does not disclose the use of a screw passing through the cover to secure it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw to secure the cover, since screws are typically used to screw through something and secure them to a second element.

Regarding claims 85-89, Fox discloses the cover as inherently having a color, a texture and a pattern of a plastic material. An obvious design choice would be to paint the cover with any appropriate color.

Allowable Subject Matter

Claims 1,3-12,14-16,18-20,26-41,56-59,63-72 are allowed as noted in the previous action.

Response to Arguments

Applicant's arguments filed 3/18/09 have been fully considered but they are not persuasive.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635